

Further, if any one of Group I-III is elected, the Office Action requires Applicant to further elect one amino acid sequence from the group consisting of SEQ ID NOS:1-5. If Group IV is elected, the Office Action requires Applicant to further elect one of the HCV proteins to be examined on their merits.

Applicants submit that claims 11-13, not included in any of Group I-IV in the Office Action, fall within Group II as they, like claims 7-10 are drawn to a mosaic polypeptide comprising an antigenic epitope. Applicants provisionally elect Group II (claims 7-13, as outlined above) with traverse.

Applicants submit that claim 7, as amended, is generic to claims depending therefrom, namely, to claims 8-13. Specifically, claim 7 recites a mosaic polypeptide comprising one or more antigenic epitopes of each of the HCV core protein, NS3 protein and NS4 protein. Claims 8-13, depending from claim 7, each define more specifically the antigenic epitopes generically recited in claim 7. As each of claims 8-13 must therefore necessarily include all limitations of claim 7, Applicants submit that claim 7 fulfills the requirements of a generic claim as set forth in MPEP 806.04(d).

Applicants respectfully assert that, in light of the amendment of claim 7, the only other election required is a species election. Thus, in fulfillment of the election requirement outlined in MPEP 809.02(a), Applicants provisionally elect a single species, specifically that recited in claim 9, to which the claims shall be restricted if generic claim 7 is not finally held to be allowable. If further species election is required, Applicants provisionally elect the species of SEQ ID NO:1.

Applicants request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would result if all of the claims are examined together. M.P.E.P. § 803 provides that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." (*Emphasis added.*) Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121) and (2) the search and examination of the entire application cannot be made without serious burden. *See* M.P.E.P. § 803. The Examiner has not shown that the *second* requirement has been met.

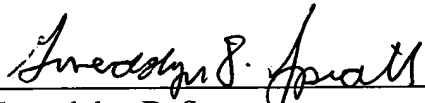
In light of the response to the restriction requirement and the amendment, Applicants respectfully request consideration of this application and allowance of the pending claims. However, in the absence of reconsideration of the restriction requirement, Applicants respectfully

ATTORNEY DOCKET NO. 14114.0349U2
Serial No. 09/758,308

request that the Examiner properly consider elected claim 7 as generic to Group II (claims 7-13) as outlined above, examine claim 7, and if claim 7 is found to be allowable, then remove the withdrawal of claims 8-13 and allow their issuance.

No additional fee is believed due with this submission; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,


Gwendolyn D. Spratt
Registration No. 36,016

Needle & Rosenberg, P.C.
Suite 1200, The Candler Building
127 Peachtree Street, N.E.
Atlanta, Georgia 30303-1811
(404) 688-0770

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date indicated below.


Gwendolyn D. Spratt

10-15-01
Date



ATTORNEY DOCKET NO. 14114.0349U2
SERIAL NO. 09/758,308

VERSION WITH MARKINGS TO SHOW CHANGES MADE

RECEIVED

OCT 22 2001

TECH CENTER 1600/2900

In the claims:

The claims have been amended as follows:

7. (Amended) A mosaic polypeptide comprising one or more antigenic epitopes of each of the HCV core protein, NS3 protein, and NS4 protein.

9. (Amended) The mosaic polypeptide of Claim 7, wherein the antigenic epitope of the core protein comprises amino acid residues 1-91 of the HCV polyprotein [(SEQ ID NO:1)].

10. (Amended) The mosaic polypeptide of Claim 7, wherein the antigenic epitope of the NS3 protein comprises amino acid residues 1471-1573 of the HCV polyprotein [(SEQ ID NO:2)].

11. (Amended) The mosaic polypeptide of Claim 7, wherein the antigenic epitope of the NS4 protein comprises amino acid residues 1789-1867 of the HCV polyprotein [(SEQ ID NO:3)].

12. (Amended) The mosaic polypeptide of Claim 7, further comprising a second antigenic epitope of the NS4 protein, wherein the second antigenic epitope comprises amino acid residues 1916-1948 of the HCV polyprotein [(SEQ ID NO:4)].

13. (Amended) The mosaic polypeptide of Claim 8, wherein the antigenic epitope of the NS5a protein comprises amino acid residues 2322-2423 of the HCV polyprotein [(SEQ ID NO:5)].